

Deborah M. Kellam | Special Counsel
Hall & Evans, LLC
866 N. 4th Street, Suite 3
Laramie, WY 82072
kellamd@hallevans.com
Tel: 307-514-2567
Fax: 307-514-2568

Michael S. Davis (pro hac vice)
Zeichner Ellman & Krause LLP
1211 Avenue of the Americas
New York, NY 10036
mdavis@zeklaw.com
Tel: 212-223-0400
Fax: 212-753-0396

Counsel for Lexington Insurance Company

UNITED STATES BANKRUPTCY COURT
DISTRICT OF WYOMING

In re:) Chapter 11
)
POWELL VALLEY HEALTH CARE, INC.) Case No. 16-20326
)
Debtor-in-Possession)

**MOTION TO VACATE AND CONTINUE HEARING SET FOR
MAY 24, 2017 ON INSURANCE COMPANIES' JOINT MOTION FOR
RELIEF FROM THE AUTOMATIC STAY**

COME NOW Lexington Insurance Company (“**Lexington**”) on behalf of itself and UMIA Insurance, Inc. (“**UMIA**”) and Homeland Insurance Company of New York (“**Homeland**”) (collectively, the “**Insurance Companies**”), each a party in interest in the Debtor’s Chapter 11 case, for this Motion to Vacate and Continue (the “**Motion**”) the Hearing set for May 24, 2017, at 2:00 p.m. (the “**Hearing**”) on the Insurance Companies’ Joint Motion for Relief From Automatic

Stay to Permit Prepetition Litigation to Continue in the United States District Court for the District of Wyoming (Docket No. 354) (the “**Stay Relief Motion**”) and all pleadings filed in opposition thereto (Docket Nos. 373 and 374). In support of the Motion, the Insurance Companies state as follows:

1. Since filing the Stay Relief Motion on October 31, 2016, the Debtor has filed a proposed Disclosure Statement proposed Plan of Reorganization (Docket Nos. 498 and 499). Moreover, the Debtor has recently stated that

...In the event that the current Plan is confirmed, the Motion for 2004 Exam will likely become moot.

2. Based on the foregoing, it is probable that the Debtor withdraws its Motion for 2004 Exam in the near future. Thus, the Debtor believes that the interests of all parties would be better served if the parties focused their efforts on issues related to the Plan confirmation in hopes of reaching consensual resolution of all pending matters related thereto, rather than spending time preparing to argue the merits of the Motion for 2004 Exam.

(Docket No 537 at ¶¶1-2.)

2. The Court has set the Hearing for the Stay Relief Motion for May 24, 2017 (Docket No. 484).

3. The Court also previously set a Hearing on the Debtor’s Motion for Authorization to Conduct Rule 2004 Examination of the Malpractice Insurance Companies (the “Rule 2004 Motion”) for May 24, 2017 (Docket No. 485). Today, the Court vacated the May 24, 2017 hearing on the Rule 2004 Motion and rescheduled it for August 30, 2017. (Docket No. 541).

4. The issues to be heard at the Hearing on the Stay Relief Motion are inextricably intertwined with the Debtor’s Rule 2004 Motion.

5. The Insurance Companies request that the Court continue the Hearing on the Stay Relief Motion to August 30, 2017 so that the Stay Relief Motion may be heard in tandem with the Rule 2004 Motion.

6. Counsel for Lexington has conferred with counsel for UMIA and Homeland who have granted authority to the undersigned to file this Motion on their collective behalf.

WHEREFORE, the Insurance Companies respectfully request the Court enter an order substantially in the form attached hereto at **Exhibit A** which: (1) vacates the Hearing set for May 24, 2017 and (2) continues the Hearing on the Stay Relief Motion to August 30, 2017 to be heard in tandem with the Rule 2004 Motion.

Dated: New York, New York
May 23, 2017

HALL & EVANS, LLC

Deborah M. Kellam | Special Counsel
866 N. 4th Street, Suite 3
Laramie, WY 82072
kellamd@hallevans.com
Tel: 307-514-2567
Fax: 307-514-2568

ZEICHNER ELLMAN & KRAUSE LLP

/s/ Michael S. Davis
Michael S. Davis (pro hac vice)
1211 Avenue of the Americas
New York, New York 10036
mdavis@zeklaw.com
Tel: 212-223-0400
Fax: 212-753-0396

Attorneys for Lexington Insurance Company

CERTIFICATE OF SERVICE

The undersigned certifies that on May 23, 2017, a copy of the foregoing was served *electronically* upon those parties indicated below:

<u>Homeland Insurance Company of NY:</u> Judith Studer Patrick T. Holscher Schwartz, Bon, Walker & Studer, LLC 141 S. Center St., Suite 500 Casper, WY 82601 (307) 235-6681 (307) 234-5099 Fax jstuder@schwartzon.com pat@schwartzbon.com Charles E. Spevacek Tiffany M. Brown Meagher & Geer, P.L.L.P. 33 S. Sixth Street, Suite 4400 Minneapolis, MN 55402 Ph: (612) 371-1324 Fax: (612) 877-3015 cspevacek@meagher.com tbrown@meagher.com	<u>UMIA Insurance, Inc.:</u> James T. Burghardt Timothy M. Swanson Moye White LLP 1400 16th St., 6th Floor Denver, CO 80202 jim.burghardt@moyewhite.com tim.swanson@moyewhite.com Julie Nye Tiedeken McKellar, Tiedeken & Scoggin, LLC 702 Randall Avenue P.O. Box 748 Cheyenne, WY 82003 jtiedeken@mtslegal.net
<u>Debtor:</u> Bradley T. Hunsicker (Wyo. Bar 7-4579) Markus Williams Young & Zimmermann LLC 106 East Lincoln way, Suite 300 Cheyenne, WY 82001 Telephone: 307-778-8178 bhunsicker@markuswilliams.com	<u>Attorneys for Official Committee of Unsecured Creditors:</u> Scott J. Goldstein Philip A. Pearlman Jamie N. Cotter Spencer Fane 1000 Walnut Street, Suite 1400 Kansas City, MO 64106 1700 Lincoln Street, Suite 2000 Denver, CO 80203 sgoldstein@spencerfane.com jcotter@spencerfane.com ppearlman@spencerfane.com

/s/ Michael S. Davis
Michael S. Davis